436.   (new) The system of claim 343, wherein the analyte detection device is configured to determine the identity of the analytes, and wherein the chemical information is representative of the analytes in the analyzed fluid system.

Support for the amendments can be found in Applicant's Specification at least on page 127, lines 19-24 and page 128, lines 18-22.

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A.   Claims in the Case

Claims 309-324 and 343 have been rejected. Claims 309 and 343 have been amended. Claims 323-342 and 375 have been cancelled. Claims 416-436 have been added. Claims 309-322, 343, and 416-436 are pending.

B.   Information Disclosure Statement

Applicant has submitted a supplemental Information Disclosure Statement. The Examiner stated that reference D50 failed to comply with provisions 37 C.F.R. 1.97, 1.98 and MPEP §609 because the publication dated was not listed. Applicant has resubmitted reference D50 as reference E7 in the supplemental Information Disclosure Statement.

B.   The Claims Are Not Indefinite Pursuant To 35 U.S.C. §112, Second Paragraph

Claims 309-324 were rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 309 has been amended for clarity. Claims 323 and 324 have been cancelled without prejudice. Applicant respectfully requests removal of the rejections of claims 309-322.

C.   The Claims Are Not Anticipated By Buechler Pursuant To 35 U.S.C. §102(e)

Claims 309-313, 317, 318, 322-324, and 343 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,074,616 to Buechler et al. ("Buechler"). Claims 309 and 343 have been amended. Claims 323 and 324 were cancelled without prejudice. Applicant respectfully disagrees that the claims are anticipated by Buechler.

The standard for "anticipation" is one of fairly strict identity. To anticipate a claim of a patent, a single prior source must contain all the claimed essential elements. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 U.S.P.Q. 81, 91 (Fed. Cir. 1986); *In re Donahue*, 766 F.2d 531, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

The Examiner stated:

> Buechler et al. discloses a communications interface that can include a wired and wireless interface to provide direct or networked communications...The communications interface can also be used to allow the fluorometer to share processing responsibilities with other devices such as a computer or other processor...By sharing program test data, calibration and control information across a network between the assay device and a client computer or other devices, Buechler et al. further anticipates the limitations of transmitting information and controlling the operation via program information between an analyte detection device and local computer or client computer via the computer network.
> (Office Action, page 4)

Applicant respectfully disagrees that the claims are unpatentable over Buechler. Amended claim 309 includes a combination of features including, but not limited to the feature of "controlling the operation of the analyte detection device from the client computer system, wherein controlling the operation of the analyte detection device comprises sending one or more control signals to the analyte detection device from the client computer system via the computer network." Amended claim 343 includes a combination of features including, but not limited to the feature of "wherein the client computer system is configured to produce one or more control signals, wherein the one or more control signals are sent from the client computer system via the

computer network to the analyte detection device, and wherein the one or more control signals are configured to control the operation of the analyte detection device from the client computer system"

Applicant's Specification states, in part:

> The client computer may be coupled directly to the ADD. Alternatively, the client computer may be coupled to the ADD via a computer network. In this embodiment, an operator may be in a different location than the location of the ADD. By sending control signals over the computer network, the operator may remotely control the operation of the ADD. The ADD may also be configured to transmit the obtained chemical information back to the client computer via the computer network.
> In another embodiment, the client computer may be coupled to the ADD via a server, as described before. The client computer may be configured to receive and/or transmit information to the ADD. In one embodiment, the ADD may be configured to receive control signals from the client computer via the server. The operation of the ADD may, therefore, be controlled via a client computer through a server. As discussed before the ADD may also transmit chemical information back to the client computer via the server.
> (Applicant's Specification, Page 136, lines 4-16)

Buechler does not appear to teach or suggest sending control signals from the client computer system via the computer network to an ADD (analyte detection device) and operating an ADD using control signals. Buechler teaches:

> A communications interface can be included to facilitate communications between the fluorometer and one or more other devices. The communications interface can include a wired and wireless interface to provide direct or networked communications. The communications interface can be used to download test data sets, including, for example, test identifications, test instructions and calibration curves, as well as other program information and calibration and control information. The communications interface can also be used to allow the fluorometer to share processing responsibilities with other devices such as a computer or other processor.
> (Column 2, lines 29-40)

Buechler appears to teach modifying the fluorometer program over a communications network. Buechler does not, however, appear to teach or suggest a control system, generating a

control signal, and transmitting the control signal to an analyte detection device to operate the device. Applicant respectfully requests removal of the rejections of independent claims 309 and 343 and dependent claims 310-313, 317, 318, and 322.

D. The Claims Are Not Obvious Over Buechler in View of Bowman-Amuah Pursuant To 35 U.S.C. §103(a)

Claims 314-316 and 319-321 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,074,616 to Buechler et al. ("Buechler") in view of U.S. Patent No. 6,332,163 to Bowman-Amuah et al. ("Bowman-Amuah"). Applicant respectfully submits that the claims are not obvious over Buechler in view of Bowman-Amuah.

For at least the reasons set forth above, the features of claims 314-316 and 319-321, in combination with the features of claim 309, are not obvious. Applicant submits claims 314-316 and 319-321 are separately patentable over the cited art and Applicant respectfully request removal of the rejections of claims 314-316 and 319-321.

E. Many Of The Dependent Claims Are Separately Patentable

Many of the dependent claims are separately patentable over the cited art. Claim 314 includes a combination of features including but not limited to the feature of "transmitting the chemical information from the analyte detection device to a server via the computer network, wherein the server is a web server, operable to maintain a web site; and transmitting the chemical information from the server over the computer network to the client computer system." Buechler and Bowman-Amuah do not appear to teach or suggest at least the quoted feature in combination with the other features of claim 309.

Claim 315 includes a combination of features including but not limited to the feature of "transmitting the chemical information from the server over the computer network to the client computer system, wherein the server is a web server, operable to maintain a web site, and

wherein the web site permits a client computer system to download the chemical information from the web server by using a web browser." Buechler and Bowman-Amuah do not appear to teach or suggest at least the quoted feature in combination with the other features of claim 309.

Claim 416 includes a combination of features including but not limited to the feature of "sending the one or more control signals to an electronic controller coupled to the analyte detection device from the client computer via the computer network." Buechler and Bowman-Amuah do not appear to teach or suggest at least the quoted feature in combination with the other features of claim 309.
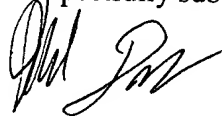
Claim 417 includes a combination of features including but not limited to the feature of "wherein the chemical information comprises Logical Observation Identifiers Name and Code format." Buechler and Bowman-Amuah do not appear to teach or suggest at least the quoted feature in combination with the other features of claim 309.

F.   **Summary**

Based on the above, Applicant submits that all claims are in condition for allowance. Favorable reconsideration is respectfully requested.

Applicant believes no fees are due in conjunction with the response at this time. If any extension of time is required, Applicant hereby requests the appropriate extension of time. If any fees have been inadvertently omitted or if any fees are required or have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5119-00524/EBM.

Respectfully submitted,

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Marked Version of Amendments Submitted with Response to Office Action Mailed October 25, 2002

309.   A method for collecting and transmitting chemical information comprising:

detecting one or more analytes with an analyte detection device, wherein the analyte detection device includes communication hardware configured to transmit chemical information; ~~and~~

transmitting the chemical information over a computer network to a client computer system coupled to the computer network, wherein the client computer system ~~comprises~~ is configured to receive the chemical information over the computer network~~.~~; and

_____ controlling the operation of the analyte detection device from the client computer system, wherein controlling the operation of the analyte detection device comprises sending one or more control signals to the analyte detection device from the client computer system via the computer network.

343.   A system for collecting and transmitting chemical information, the system comprising:

an analyte detection device, operable to detect one or more analytes and produce output signifying the detection of one or more analytes in the form of chemical information~~.~~; and wherein the analyte detection device comprises communication hardware and software executable to transmit the chemical information over a computer network to other computer systems;

a client computer system connected to the computer network, wherein the client computer system comprises a software program executable to receive the chemical information over ~~a~~ the computer network, and wherein the client computer system is configured to produce one or more control signals, wherein the one or more control

signals are sent from the client computer system via the computer network to the analyte detection device, and wherein the one or more control signals are configured to control the operation of the analyte detection device from the client computer system.

~~and wherein the analyte detection device comprises communication hardware and software executable to transmit the chemical information over a computer network to other computer systems.~~